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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL RHAMBO,

Plaintiff,

vs.

GREEN STREET RESTAURANT
PARTNERS, LLC; and DOES 1 through
10.

Defendants.

Case No.:

**COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR
VIOLATION OF:**

1. AMERICANS WITH DISABILITIES ACT, 42 U.S.C. §12131 et seq.;
 2. CALIFORNIA'S UNRUH CIVIL RIGHTS ACT, CAL CIV. CODE §§ 51 - 52 et seq.;
 3. CALIFORNIA'S DISABLED PERSONS ACT, CAL CIV. CODE §54 et seq.
 4. CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.
 5. NEGLIGENCE

Plaintiff MICHAEL RHAMBO (“Plaintiff”) complains of Defendants GREEN STREET RESTAURANT PARTNERS, LLC; and DOES 1 through 10 (“Defendants”) and alleges as follows:

11

PARTIES

1. Plaintiff is a California resident with a physical disability with substantial limitation in his ability to walk. Plaintiff suffers from paraplegia due to T12 vertebrae thoracic spinal cord injury and requires the use of a wheelchair at all times when traveling in public.

2. Defendants are, or were at the time of the incident, the real property owners, business operators, lessors and/or lessees of the real property for a restaurant business establishment (“Business”) located at or about 44 W. Green St., Pasadena, California.

3. The true names and capacities, whether individual, corporate, associate or otherwise of Defendant DOES 1 to 10, and each of them, are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of Court to amend this Complaint when the true names and capacities have been ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such fictitiously named Defendants are responsible in some manner, and therefore, liable to Plaintiff for the acts herein alleged.

4. Plaintiff is informed and believes, and thereon alleges that, at all relevant times, each of the Defendants was the agent, employee, or alter-ego of each of the other Defendants, and/or was acting in concert with each of the other Defendants, and in doing the things alleged herein was acting with the knowledge and consent of the other Defendants and within the course and scope of such agency or employment relationship.

5. Whenever and wherever reference is made in this Complaint to any act or failure to act by a defendant or Defendants, such allegations and references shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly and severally.

JURISDICTION AND VENUE

6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et seq.*)

1 7. Pursuant to pendant jurisdiction, attendant and related causes of action,
2 arising from the same nucleus of operating facts, are also brought under California law,
3 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
4 54, 54., 54.3 and 55.

5 8. Plaintiff's claims are authorized by 28 USC §§ 2201 and 2202.

6 9. Venue is proper in this court pursuant to 28 USC §1331(b). The real
7 property which is the subject of this action is located in this district, Los Angeles County,
8 California, and that all actions complained of herein take place in this district.

FACTUAL ALLEGATIONS

10. In or about December of 2022, Plaintiff went to the Business.

11 11. The Business is a restaurant business establishment, open to the public, a
12 place of public accommodation and affects commerce through its operation. Defendants
13 provide restrooms for customers.

12. While attempting to enter the Business during each visit, Plaintiff personally
13 encountered a number of barriers that interfered with his ability to use and enjoy the
14 goods, services, privileges, and accommodations offered at the Business.

13. To the extent of Plaintiff's personal knowledge, the barriers at the Business
14 included, but were not limited to, the following:

19 a. The restroom was not accessible and violated various American with
20 Disability Act Accessibility Guideline (“ADAAG”) requirements,
21 including but not limited to inadequate size of access compartments.
22 (i) grab bars;
23 (ii) paper towel dispenser;
24 (iii) toilet paper dispenser;
25 (iv) sink knee clearance; and
26 (v) toilet flush

27 14. These barriers and conditions denied Plaintiff the full and equal access to the
28 Business and caused his difficulty and frustration. Plaintiff wishes to patronize the

1 Business, however, Plaintiff is deterred from visiting the Business because his knowledge
2 of these violations prevents his from returning until the barriers are removed.

3 15. Based on the violations, Plaintiff alleges, on information and belief, that
4 there are additional barriers to accessibility at the Business after further site inspection.
5 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-
6 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

7 16. In addition, Plaintiff alleges, on information and belief, that Defendants
8 knew that particular barriers render the Business inaccessible, violate state and federal
9 law, and interfere with access for the physically disabled.

17. At all relevant times, Defendants had and still have control and dominion
over the conditions at this location and had and still have the financial resources to
remove these barriers without much difficulty or expenses to make the Business
accessible to the physically disabled in compliance with ADDAG and Title 24
regulations. Defendants have not removed such barriers and have not modified the
Business to conform to accessibility regulations.

FIRST CAUSE OF ACTION

VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990

18 18. Plaintiff incorporates by reference each of the allegations in all prior
19 paragraphs in this complaint.

20 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
21 shall be discriminated against on the basis of disability in the full and equal enjoyment of
22 the goods, services, facilities, privileges, advantages, or accommodations of any place of
23 public accommodation by any person who owns, leases, or leases to, or operates a place
24 of public accommodation. *See* 42 U.S.C. § 12182(a).

25 | 20. Discrimination, *inter alia*, includes:

- 26 a. A failure to make reasonable modification in policies, practices, or
27 procedures, when such modifications are necessary to afford such
28 goods, services, facilities, privileges, advantages, or accommodations

1 to individuals with disabilities, unless the entity can demonstrate that
2 making such modifications would fundamentally alter the nature of
3 such goods, services, facilities, privileges, advantages, or
4 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

- 5 b. A failure to take such steps as may be necessary to ensure that no
6 individual with a disability is excluded, denied services, segregated or
7 otherwise treated differently than other individuals because of the
8 absence of auxiliary aids and services, unless the entity can
9 demonstrate that taking such steps would fundamentally alter the
10 nature of the good, service, facility, privilege, advantage, or
11 accommodation being offered or would result in an undue burden. 42
12 U.S.C. § 12182(b)(2)(A)(iii).
- 13 c. A failure to remove architectural barriers, and communication barriers
14 that are structural in nature, in existing facilities, and transportation
15 barriers in existing vehicles and rail passenger cars used by an
16 establishment for transporting individuals (not including barriers that
17 can only be removed through the retrofitting of vehicles or rail
18 passenger cars by the installation of a hydraulic or other lift), where
19 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).
- 20 d. A failure to make alterations in such a manner that, to the maximum
21 extent feasible, the altered portions of the facility are readily
22 accessible to and usable by individuals with disabilities, including
23 individuals who use wheelchairs or to ensure that, to the maximum
24 extent feasible, the path of travel to the altered area and the
25 bathrooms, telephones, and drinking fountains serving the altered
26 area, are readily accessible to and usable by individuals with
27 disabilities where such alterations to the path or travel or the
28 bathrooms, telephones, and drinking fountains serving the altered

area are not disproportionate to the overall alterations in terms of cost and scope. 42 U.S.C. § 12183(a)(2).

21. The side wall grab bar shall be 42 inches (1065 mm) long minimum, located 12 inches (305 mm) maximum from the rear wall and extending 54 inches (1370 mm) minimum from the rear wall. 2010 ADA Standards § 604.5.1. The rear wall grab bar shall be 36 inches (915 mm) long minimum and extend from the centerline of the water closet 12 inches (305 mm) minimum on one side and 24 inches (610 mm) minimum on the other side. 2010 ADA Standards § 604.5.2

22. Here, Defendants failed to install the side and rear grab bars as required by the Standards.

23. The highest operable part of controls, dispensers, receptacles, and other operable equipment shall be placed within at least one of the reach ranges specified in 4.2.5 and 4.2.6. Electrical and communications system receptacles on walls shall be mounted no less than 15 in (380 mm) above the floor. 1991 ADA Standards § 4.27.3

24. Here, Defendants failed to properly install the paper towel dispenser as it was installed too high.

25. Toilet paper dispensers shall comply with 309.4 and shall be 7 inches (180 mm) minimum and 9 inches (230 mm) maximum in front of the water closet measured to the centerline of the dispenser. The outlet of the dispenser shall be 15 inches (380 mm) minimum and 48 inches (1220 mm) maximum above the finish floor and shall not be located behind grab bars. Dispensers shall not be of a type that controls delivery or that does not allow continuous paper flow. 2010 ADA Standards § 604.7.

26. Here, Defendants failed to install a toilet paper dispenser in compliance with the Standards.

27. Water supply and drain pipes under lavatories and sinks shall be insulated or otherwise configured to protect against contact. There shall be no sharp or abrasive surfaces under lavatories and sinks. 2010 ADA Standards § 606.5.

28. Here, Defendants failed to properly insulate the drain pipes under the sink.

29. Toilet flush controls shall be hand operated or automatic. Hand operated flush controls shall comply with 309. Flush controls shall be located on the open side of the water closet. 2010 ADA Standards § 604.6.

30. Here, Defendants failed to install a proper flush control as it was not located on the open side of the water closet.

31. A public accommodation shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

32. By failing to maintain the facility to be readily accessible and usable by Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related regulations.

33. The Business has denied and continues to deny full and equal access to Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be discriminated against due to the lack of accessible facilities, and therefore, seeks injunctive relief to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities.

SECOND CAUSE OF ACTION

VIOLATION OF THE UNRUH CIVIL RIGHTS ACT

34. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

35. California Civil Code § 51 states, “All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”

36. California Civil Code § 52 states, “Whoever denies, aids or incites a denial, or make any discrimination or distinction contrary to Section 51, 515, or 51.6, is liable

for each and every offense for the actual damages, and any amount that may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than four thousand dollars (\$4,000) and any attorney's fees that may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51, 51.5, or 51.6.

6 37. California Civil Code § 51(f) specifies, “a violation of the right of any
7 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
8 shall also constitute a violation of this section.”

9 38. The actions and omissions of Defendants alleged herein constitute a denial
10 of full and equal accommodation, advantages, facilities, privileges, or services by
11 physically disabled persons within the meaning of California Civil Code §§ 51 and 52.
12 Defendants have discriminated against Plaintiff in violation of California Civil Code §§
13 51 and 52.

14 39. The violations of the Unruh Civil Rights Act caused Plaintiff to experience
15 difficulty, discomfort, or embarrassment. The Defendants are also liable for statutory
16 damages as specified in California Civil Code §55.56(a)-(c).

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA DISABLED PERSONS ACT

19 40. Plaintiff incorporates by reference each of the allegations in all prior
20 paragraphs in this complaint.

21 41. California Civil Code § 54.1(a) states, “Individuals with disabilities shall be
22 entitled to full and equal access, as other members of the general public, to
23 accommodations, advantages, facilities, medical facilities, including hospitals, clinics,
24 and physicians’ offices, and privileges of all common carriers, airplanes, motor vehicles,
25 railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes
26 of transportation (whether private, public, franchised, licensed, contracted, or otherwise
27 provided), telephone facilities, adoption agencies, private schools, hotels, loading places,
28 places of public accommodations, amusement, or resort, and other places in which the

1 general public is invited, subject only to the conditions and limitations established by
2 law, or state or federal regulation, and applicable alike to all persons.

3 42. California Civil Code § 54.3(a) states, “Any person or persons, firm or
4 corporation who denies or interferes with admittance to or enjoyment of public facilities
5 as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an
6 individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for
7 the actual damages, and any amount as may be determined by a jury, or a court sitting
8 without a jury, up to a maximum of three times the amount of actual damages but in no
9 case less than one thousand dollars (\$1,000) and any attorney’s fees that may be
10 determined by the court in addition thereto, suffered by any person denied the rights
11 provided in Section 54, 54.1, and 54.2.

12 43. California Civil Code § 54(d) specifies, “a violation of the right of an
13 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
14 constitute a violation of this section, and nothing in this section shall be construed to limit
15 the access of any person in violation of that act.

16 44. The actions and omissions of Defendants alleged herein constitute a denial
17 of full and equal accommodation, advantages, and facilities by physically disabled
18 persons within the meaning of California Civil Code § 54. Defendants have
19 discriminated against Plaintiff in violation of California Civil Code § 54.

45. The violations of the California Disabled Persons Act caused Plaintiff to
experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
statutory damages as specified in California Civil Code §55.56(a)-(c).

FOURTH CAUSE OF ACTION

CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.

25 46. Plaintiff incorporates by reference each of the allegations in all prior
26 paragraphs in this complaint.

27 47. Plaintiff and other similar physically disabled persons who require the use of
28 a wheelchair are unable to use public facilities on a "full and equal" basis unless each

such facility is in compliance with the provisions of California Health & Safety Code § 19955 et seq. Plaintiff is a member of the public whose rights are protected by the provisions of California Health & Safety Code § 19955 et seq.

4 48. The purpose of California Health & Safety Code § 1995 et seq. is to ensure
5 that public accommodations or facilities constructed in this state with private funds
6 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of
7 Title 1 of the Government Code. The code relating to such public accommodations also
8 require that “when sanitary facilities are made available for the public, clients, or
9 employees in these stations, centers, or buildings, they shall be made available for
10 persons with disabilities.

11 49. Title II of the ADA holds as a “general rule” that no individual shall be
12 discriminated against on the basis of disability in the full and equal enjoyment of goods
13 (or use), services, facilities, privileges, and accommodations offered by any person who
14 owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).
15 Further, each and every violation of the ADA also constitutes a separate and distinct
16 violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an
17 award of damages and injunctive relief pursuant to California law, including but not
18 limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

FIFTH CAUSE OF ACTION

NEGLIGENCE

21 50. Plaintiff incorporates by reference each of the allegations in all prior
22 paragraphs in this complaint.

23 51. Defendants have a general duty and a duty under the ADA, Unruh Civil
24 Rights Act and California Disabled Persons Act to provide safe and accessible facilities
25 to the Plaintiff.

26 52. Defendants breached their duty of care by violating the provisions of ADA,
27 Unruh Civil Rights Act and California Disabled Persons Act.

1 53. As a direct and proximate result of Defendants' negligent conduct, Plaintiff
2 has suffered damages.

PRAYER FOR RELIEF

4 WHEREFORE, Plaintiff respectfully prays for relief and judgment against
5 Defendants as follows:

6 1. For preliminary and permanent injunction directing Defendants to comply
7 with the Americans with Disability Act and the Unruh Civil Rights Act;

8 2. Award of all appropriate damages, including but not limited to statutory
9 damages, general damages and treble damages in amounts, according to proof;

10 3. Award of all reasonable restitution for Defendants' unfair competition
11 practices;

12 4. Reasonable attorney's fees, litigation expenses, and costs of suit in this
13 action;

14 5. Prejudgment interest pursuant to California Civil Code § 3291; and
15 6. Such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues so triable.

20 | Dated: March 29, 2023

SO. CAL. EQUAL ACCESS GROUP

By: /s/ Jason J. Kim
Jason J. Kim, Esq.
Attorneys for Plaintiff